REMARKS

I. Front Page of the Office Action

The cover page of the February 27, 2007 office action indicates that claims 1-14 are pending in the application and that claims 1-14 are rejected. Claims 1 and 8 are the independent claims.

The applicant amends herewith claims 1, 2, 5, 8, and 12; cancels claims 7 and 14; and adds new claims 15-20.

II. Support in the Specification for the Added/Amended Limitations

Claims 1 and 8:

"activating, in a computer system of a third party, a consumer account associated with said card". Page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 6 lines 19-20; page 7 lines 1-2; page 7 lines 20-21; page 8 lines 10-12; Figure 7, icon 8.02; Figure 8, icon 9.12.

"providing said consumer account with an initial credit". Page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 7 lines 20-21.

"identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system". Page 4 line 28 through page 5 line 2; page 7 lines 25-26; Figure 7, icon 8.14; Figure 8, icon 9.04.

"debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction". Page 4 line 28 through page 5 line 2; page 7 lines 26-27; Figure 8, icon 9.06.

"determining, in said retail store computer system, conditions for future credits associated with said CID". Page 10 lines 27-28; page 24 lines 12-13.

"storing, in said retail store computer system, said conditions in an account associated with said CID". Page 5 lines 27-29; page 10 line 27 through page 11 line 9; page 24 lines 9-12; Figure 7, icon 8.16; Figure 8, icon 9.08.

"crediting, in said retail store computer system, said consumer account, costs of items purchased when said conditions are satisfied". Page 4 line 28 through page 5 line 2; page 5 lines 27-29; page 10 line 28 through page 11 line 2; page 11 line 28 through page 12 line 2; page 24 lines 9-12; Figure 7, icon 8.16.

"selling said card by said third party to a consumer at a card sale price". Page 2 lines 2-3; page 8 lines 13-14.

"crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account." Page 6 lines 7-8; page 6 lines 13-14; page 8 lines 10-12.

Claims 15 and 18:

"wherein said card sale price is less than said initial credit." Page 8 lines 13-14.

Claims 16 and 19:

"transmitting, from said computer system of said third party to said retail store computer system, a signal indicating that said consumer account has been activated after said activating." Page 6 lines13-16; page 6 lines 20-24; page 8 lines 10-12;

Claims 17 and 20:

"transferring funds totaling an amount that is less than said card sale price from said third party to said retail store." Page 2 lines 2-7; page 8 lines 10-16.

III. Correction and Refiling of Information Disclosure Statement

On page 2 of the office action, the examiner requested the list of PTO-1449 of the IDS be resubmitted. In response, the applicant submits herewith a 37 CFR 1.97 information disclosure statement and a 37 CFR 1.98(A)(1) reference citation listing references U-001-U-012.

IV. Claim Rejections Under 35 USC 112

On page 2 line 21 through page 3 line 4 of the office action, the examiner rejected claims 5, 6, 12, and 13 due to insufficient antecedent basis for certain limitations. In response, the applicant has amended the relevant claims.

V. Claim Rejections Under 35 USC 102 and 35 USC 103

On pages 3-6 of the office action, the examiner rejected claims 1, 4-5, 8 and 11-12 under 35 USC 102(b) as being anticipated by Walker et al., US 5,945,653 (hereinafter "Walker"); and claims 2, 7, 9, and 14 under 35 USC 103(a) as being unpatentable over Walker in view of Horgan, US 2002/0022966 (hereinafter "Horgan"). In response, the applicant has amended independent claims 1 and 8, and 15 and 18, to contain limitations that are not anticipated by Walker; nor made obvious by Walker in view of Horgan, as explained below.

A. Neither Walker nor Horgan Teaches "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account" as Defined in Claims 1 and 8

In the office action on page 5 lines 4-13, the examiner admitted that Walker did not disclose certain limitations of originally filed claims 1 and 8, stating that:

> As to claims 7 and 14, Walker doe[s] not specifically teach a third party selling said card to a

consumer at a face value price, said card providing a right to credit in an amount of said face value in a retailer store, and said retailer store charging said third party less than said value for said card. However, Horgan teaches this matter ([paragraph] 19, 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow a third party selling said card to a consumer at a face value price, said card providing a right to credit in an amount of said face value in a retailer store, and said retailer store charging said third party less than said face value for said card as taught by Horgan for better promoting the sales of the products or services provided by the retailer stores.

Walker does not disclose the limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account" as defined in currently amended claims 1 and 8.

Horgan discloses settlement of stored value cards in paragraph 25, which states in pertinent part that:

> Settlement describes the process by which the acquiring institution, representing the merchant, is paid the face value amount of the transaction by the issuing institution on behalf of the cardholder, less any processing fees such as a discount fee, which are orchestrated by the transaction processor upon the delivery of goods or services. [Paragraph 0025.]

This passage in Horgan discloses the merchant receiving the face value amount of the transaction *with the consumer* using the credit card as proof of credit, less the processing fees collected by the transaction provider upon the delivery of goods or services. Horgan does not disclose settlement for purchase of the card occurring prior to a transaction between the consumer and the retail store, and it does not disclose the transaction between the third party and the retail store for activation of an account; activation occurring on or subsequent to purchase of the card by the consumer.

Horgan discloses settlement of debit cards in paragraph 29, which states in pertinent part that:

> Periodically, in a process referred to as "settlement", the capture information from numerous transactions is sorted by the card processor and payment instructions are transmitted to the issuing bank along with the acquiring bank. It will be appreciated that the term "institution" may be generally substituted herein for the term "bank", because financial institutions often comprise entities that are not technically banks. The funds are subsequently transferred by the issuing bank to the acquiring bank, with the statement of the cardholder being updated in accord with the transaction by the issuing bank. The acquiring bank posts net proceeds to the merchant account associated with

the transaction. It will be appreciated that the net proceeds comprise the transaction amount less certain fees and charges retained by the card processor, the acquiring bank, and the issuing bank, these being referred to collectively as the "discount".

This passage in Horman discloses the merchant receiving the face value amount of the consumer's credit based transaction, less the discount. Horgan does not disclose settlement of debit cards occurring prior to a transaction between the consumer and the retail store; settlement between the third party and the retail store for the activation of the card.

Horgan discloses settlement of virtual account payment (VAP) cards in paragraph 67, which states in pertinent part that:

> A transaction posted with the VAP card according to the present invention is settled in the settlement process within block 88 that ensues after transaction authorization. During the settlement process of block 88, the issuing bank is presented with a "demand" at block 90, referred to as the "capture", in the amount of the transaction. The demand is satisfied during processing of the settlement at block 92. An amount is paid by the issuing bank at block 94 from the trust account to thereby fulfill the transaction. It will be appreciated that the amounts transferred during settlement may be subject to certain fees, deductions, and deductions as agreed to by the parties to the settlement process.

This passage in Horman discloses the merchant receiving the face value amount of the consumer's purchase transaction, less fees. Horgan does not disclose settlement of VAP cards occurring prior to a transaction between the consumer and the retail store.

There is no disclosure in either Walker or Horgan of "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account" as defined in claims 1 and 8. Horgan discloses settlement occurring after a transaction between the consumer and the retail store. Neither reference suggests that limitation. Therefore, the rejections of amended claims 1 and 8, and the claims that depend therefrom, are improper and should be withdrawn.

B. **There is No Motivation to Combine Walker in View of Horgan in Order to Overcome the Deficiencies of Walker as Admitted by the Examiner**

Walker discloses a system and a process for establishing and carrying out functions adapted to affect credit card transactions, such as discounts, rebates, or special purchase operations. Walker column 3 lines 45-48. Walker discloses processing data received at the point-of-sale to affect the transaction by

using existing relationships between the cardholder, the merchant, and the credit card issuer to benefit the parties. Walker column 4 lines 5-8 and lines 21-23.

Horgan discloses a process for facilitating payment card transactions from an underlying virtual account that exists as a data entity within a trust account, wherein cardholders are able to purchase goods and services from a merchant. Horgan Abstract.

Horgan discloses that the trust account has associated with it a repository of capital sufficient to disburse funds equivalent to the cumulative balances within the associated virtual accounts.... Virtual account balances are thereby aggregated into the trust account for one or more issuing institutions from which transactions executed with the payment card may be directed. Information about active virtual accounts are contained as a record within a database which is maintained by the card issuer or trustee. Horgan paragraph 31.

At page 5 lines 8-13 of the office action, the examiner provided an alleged motivation for combining Walker in view of Horgan, stating that:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow a third party selling said card to a consumer at a face value price, said card providing a right to credit in an amount of said face value in a retailer store, and said retailer store charging said third party less than said face value for said card as taught by Horgan for better promoting the sales of the products or services provided by the retailer stores.

The examiner has not shown how the limitations "selling said card to a consumer at a face value price, said card providing a right to credit in an amount of said face value in a retailer store, and said retailer store charging said third party less than said face value for said card" would "better promot[e] the sales of products or services provided by the retailer stores." Walker discloses carrying out functions adapted to provide financing options for credit card transactions and Horgan discloses a card that draws upon an account backed by a trust fund. Not only are the purposes of these inventions at odds with the other, but neither reference discloses or would benefit from selling a stored value card to a customer. For these additional reasons, the examiner's stated motivation for combining the references is improper.

For this additional reason, the rejections of claims 1 and 8, and the claims that depend therefrom, are improper and should be withdrawn.

VI. Neither Walker nor Horgan Teaches the Limitation Defined in Claims 15 and 18

Claims 15 and 18 define "said card sale price is less than said initial credit."

In the office action at page 5 lines 4-7, the examiner states, with emphasis supplied, that:

Walker doe[s] not specifically teach a third party selling said card to a consumer at a face value price, said card providing a right to credit in an amount of said face value in a retailer store, and **said retailer store charging said third party less than said value for said card.**

Therefore, Walker does not teach "said selling is at a price that is less than said face value price." Horgan discloses selling a stored value card that is sold at a fixed denomination [paragraph 29]. However, Horgan does not disclose selling a stored value card that is sold for less than its face value. Therefore, the relevant references previously cited by the examiner do not disclose claims 15 and 18's limitations.

Respectfully Submitted,

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